

ARTICLE 28
LEAVES OF ABSENCE

PART A. EDUCATION LEAVE

At the discretion of the Employer, employees may be given up to ten (10) months leave of absence without pay in order to attend an accredited college or university. Upon return from the leave of absence, the employee may be reassigned to a position utilizing his/her educational qualifications, or to a position in the same classification, not necessarily the same position at the same location he/she previously held.

PART B. MEDICAL, PARENTAL AND FAMILY CARE LEAVES

Section 1. Employee Medical Leave.

In the event an employee is off on paid leave due to a non-duty medical or injury disability, which is not totally disabling, and he/she exhausts all of his/her sick leave and then exhausts all of his/her annual leave, such employee shall then be placed on a medical leave of absence without pay not to exceed one (1) year from the date of exhaustion of his/her annual leave. Upon request, such leave may be renewed by the Employer for a period of time up to one (1) year.

Upon return from any leave caused by a non-duty medical or injury disability of not more than three (3) months (from the commencement of the absence), the employee shall be assured a same position at the same location. Time off in excess of three (3) months means that the employee shall be eligible for a position in the same classification or the first vacancy available.

Periodic medical confirmation of the medical or injury disability including extension request, is required. A medical certification of good health is required before he/she will be allowed to return to full-duty status.

Disabilities resulting from pregnancy and childbirth, and complications arising therefrom, shall be treated the same as any other medical/physical disability.

Section 2. Parental Leave.

- a. Upon written request an employee shall, because of the birth or adoption of a child, be granted parental leave for up to six (6) months.
- b. In accordance with the Family Medical Leave Act, upon written request, an employee shall be granted up to twelve (12) work weeks of parental leave because of foster care placement of a child.

- c. Parental leave must conclude within twelve (12) months of the birth or placement of a child.
- d. Accrued sick leave credits shall not be used to cover a period of parental leave.
- e. In these instances where both spouses are covered by this provision, such parental leaves may be taken either concurrently or consecutively.
- f. The Employer may grant an extension of such leave(s) upon written request of the employee(s) for up to an additional six (6) months. The decision to grant or deny such extension(s) shall be based upon the operational needs of the Employer.
- g. For an employee who returns from an approved leave early, the provisions of (h and i) below will apply.
- h. An employee returning from an approved parental leave of absence of six (6) months or less will be restored to a position in the employee's same classification and previous work location. However, if the position of an employee who has been granted such leave is abolished during the absence, that employee shall be returned to the classified service in accordance with Article 12.
- i. An employee returning from an approved parental leave of absence of more than six (6) months will be restored to a position in the employee's same classification but not necessarily at the previous work location. Assignment upon return from a parental leave of more than six (6) months shall be based upon the operational needs of the Employer. This provision shall not be viewed as being inconsistent, in whole or part, with Article 13 or Appendix E.
- j. The status of an employee who fails to report to work at the expiration of the parental leave shall be as outlined in Article 11, Section 2-e (1).

Section 3. Family Care Leave.

- a. In accordance with the Family Medical Leave Act and Section 4 below, an employee shall be granted up to twelve (12) work weeks of family care leave to care for a spouse, son, daughter or parent with a serious health condition.
- b. The twelve (12) work weeks of family care leave entitlement may be reduced by an amount equivalent to other qualifying leave designated as FMLA leave in the same twelve month period.

- c. Family care leave must normally be requested thirty (30) days in advance when the need is foreseeable.
- d. Certification by the family member's health care provider may be required by the Employer.

Section 4. Implementation of the Family Medical Leave Act of 1993 (FMLA).

The right to leave under the provisions of the Family Medical Leave Act of 1993 (FMLA) is acknowledged by the parties. The implementation of those rights shall in no way impair or reduce the rights of employees as set forth in this contract. In accordance with the provisions of the FMLA, the Employer shall maintain the employee's current health plan benefits during any periods of unpaid leave that qualify under the provisions of that Act. Employees may elect to use accumulated leave credits during periods of leave that qualify under the Family Medical Leave Act. The Employer may count paid and unpaid leaves toward the twelve (12) work week entitlement established by the FMLA, subject to the following understandings:

- a. The nature or purpose of the leave qualifies under the FMLA;
- b. The employee must have worked for the Employer for at least twelve (12) months and at least 1250 hours in the preceding twelve (12) months;
- c. The Employer will notify the employee if a requested leave is to be designated and counted as FMLA leave;
- d. The provisions of Article 32, Part B, Section 1 shall apply if an employee requests medical leave and has submitted a claim for LTD insurance.
- e. The FMLA provides that FMLA qualifying leave(s) shall be limited to twelve (12) work weeks per twelve (12) month period. This twelve (12) month period shall be measured forward from the first date the employee's FMLA qualifying leave begins.

PART C. MILITARY LEAVE

- a. As used throughout this Section, Armed Forces shall mean the U.S. Army, Air Force, Navy, Marine Corps, Army National Guard, Air National Guard, Coast Guard and any reserve component thereof.

- b. A permanent employee who is or hereafter becomes a member of the Armed Forces and who requests leave from employment for the purpose of attending active-duty training, whether such training is mandatory or elective on the part of the employee, shall be granted a leave of absence therefore.
- c. All applications for military leave or time off for military purposes of less than ninety (90) days (including determining physical fitness, "weekend" duty or duty of less than four (4) days) by a permanent employee shall be submitted by completing a form PD-1 (Leave Application and Certification). Such application shall be accompanied by a copy of orders, letter of instructions or training schedule (if the employee has received them), and shall be submitted far enough in advance to give "reasonable notice" in order to schedule or adjust the schedule for the absence. Upon his/her return from training, the employee shall be reinstated in his/her position without reduction in seniority, status, pay rate, vacation time accrual rate or fringe benefits.
- d. When the employee requests leave to attend active military duty requiring an absence of more than ninety (90) days, he/she must request such leave in writing not less than thirty (30) days prior to the first day of contemplated duty and attach copies of his/her orders for active duty. Upon release from active duty requiring an absence of more than ninety (90) days, the employee must make application for reinstatement within fifteen (15) days after discharge, and if the employee is physically able to be reinstated, the Employer, shall reinstate the employee at his/her former employment position or a similar position if the former position is no longer available, with such seniority, status, pay rate, vacation accrual rate and pension benefits as he/she would have had if he/she had not been absent for military duty. All insurance benefits shall be per the provisions of the insurance contracts and the laws governing military leave.
- e. No employee shall be discriminated against on the basis of his/her membership in the Armed Forces, or persuaded to resign therefrom. No employee shall be discriminated against, nor granted preferential treatment with regard to scheduling and work hours, whether the military duty is weekend, annual training or active duty training. It is expressly understood that such employee must work with the Employer and his/her fellow employees in working out scheduling assignments, and hours in a manner least disruptive to them and the regular operations.
- f. **Paid Leave.** A temporary leave of absence for temporary active duty or training shall be with pay equivalent to the difference between the permanent employee's military pay and regular State salary for each

day of active duty or training when he/she is missing scheduled State employment, if the military pay is less for the same period of time. Such pay differential, however, shall not exceed twenty (20) days in any fiscal year.

- g. **Unpaid Leave.** An employee shall be granted a leave of absence without pay to serve in the Armed Forces and shall have such re-employment rights as provided by the U.S. Military Selective Service Act (or any prior or subsequent corresponding law), Pub. L. 93-508, as amended. Summarized, the key points are that the employee must:

- (1) Receive a certificate of satisfactory completion of military service;
and
- (2) Make application for re-employment within ninety (90) days after his/her military discharge.

The employee shall then be restored to the same or similar position, if qualified. If the employee is not qualified to perform the duties of the position, he/she will be offered employment in a position where the employee can perform the duties. The employee, if qualified, shall be credited with like seniority, status and pay; and if not qualified, he/she will be provided seniority, status and pay for the nearest approximation thereof consistent with the circumstances in such employee's case.